

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
Tampa Division

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CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA)

v.)

SAMI AMIN AL-ARIAN, *et al.*,)

Defendants.)

Case No.: 8:03-CR-77-T-30TBM

MOTION TO COMPEL

COMES NOW the Accused, Dr. Sami Amin Al-Arian, by counsel, and moves this Honorable Court for the entry of an Order compelling the discovery of the following information pursuant to the government's obligations under Fed. R. Crim. P. 16 (hereinafter, "Rule 16"), Brady v. Maryland, 373 U.S. 83 (1963) and its progeny. As grounds for the foregoing, the Accused avers the following to wit:

Pursuant to the Local Rules and this Court's discovery Orders, the Accused, by counsel, wrote the government on January 27, 2004 requesting certain items of discovery and exculpatory material pursuant to Rule 16, Brady v. Maryland, 373 U.S. 83 (1963) and its progeny. In their response of March 10th, 2004, the government declined to provide the information requested. We therefore certify that these genuine issues cannot be resolved without formal motion to the Court.

By this motion, the Defense seeks to compel the following information that the government has expressly declined to provide:

1. Whether Dr. Al-Arian was overheard on any electronic surveillance that was conducted on any other targets of any other investigations;

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2. Whether the government intends to utilize any electronic surveillance by any law enforcement or intelligence agency of any foreign government;
3. All translations utilized by the government in preparation of the indictment that differ in any way from the translations the government used to obtain the indictment and/or intends to offer at trial;
4. The names, credentials, and contact information for all translators involved in the creation and production of the translations utilized in preparation of the indictment;
5. All information concerning the utilization of Dr. Al-Arian as an “asset” or “source” for the FBI, including, but not limited to:
 - (a) The dates, times, places, and circumstances in which the Accused was so utilized;
 - (b) The names of all FBI agents involved in the interviews of Dr. Al-Arian or in the receipt of written information from Dr. Al-Arian;
 - (c) How and where any information provided by Dr. Al-Arian was utilized;
 - (d) Any official or unofficial evaluations of the information provided by Dr. Al-Arian; and,
 - (e) The names and contact information for the individual evaluators.
6. All email traffic involving or relating to Dr. Al-Arian that was monitored and/or intercepted by any agency of the United States government;
7. Whether any email traffic was monitored pursuant to the FISA wiretaps;
8. All products of the mail cover conducted against Dr. Al-Arian; and,

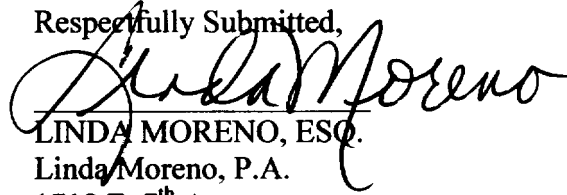
9. With regard to any informants the government may have utilized in the investigation of Dr. Al-Arian, consistent with Roviaro v. United States, 353 U.S. 53 (1957):
- (a) The date on which any person became an informant for the government;
 - (b) Whether any informant was suspected, apprehended, or convicted of any crime(s) at any time before, during, or after which he/she agreed to gather information or testify on behalf of the United States Government;
 - (c) What crimes, acts of dishonesty, or other breaches of law (including jurisdiction and case number) have such informant(s) committed or been suspected of having committed at any time during which he/she agreed to gather information or testify on behalf of the United States Government;
 - (d) Whether any potential or actual criminal charges against any informant were abandoned, altered, delayed, suspended, or otherwise disposed of due to, or in consideration of, an agreement between the informant and the government to describe historical information, gather future information, or to testify on behalf of the United States Government;
 - (e) What financial arrangements existed or exist between any informant and any agency of the United States or any State;

- (f) The names, current addresses and telephone numbers, and criminal records of any informant to be called as a witness for the United States Government. If the informant is currently incarcerated, the name and location of the facility in which they are currently being held;
- (g) The substance of any plea bargain(s) entered into by the informant and any agency of a State or of the United States, and the authority for any such plea bargains(s);
- (h) The substance of any agreements made by the United States or an individual State with any informant not to charge, or to dismiss, any crimes, and the authority for any such agreements;
- (i) The substance, timing, and authority for any actual, planned, or requested sentence reductions pursuant to U.S.S.G. 5K1, Rule 35, or any other state or federal promise for or act of leniency with regard to any informant, whether or not such consideration was with regard to the instant case or a related case;
- (j) As to each informant, his or her history of cooperation and or testifying in trials on behalf of the government.
- (k) Whether any informant was an addict or user of any controlled substances and, if so, what controlled substance; also, whether the informant has, since becoming an informant, continued to use any controlled substances and the extent of such use.

- (l) Information tending to show bias and/or prejudice on the part of any informant whom the government intends to call at trial including, but not limited to, past relationships, feuds, jealousies, slights, insults, grudges, substantial religious or political disputes, and the like with regard to the Accused, his co-defendants, or any other potential witness;
- (m) Information tending to show that any informant has made contradictory or inconsistent statements relative to this case, any related case or defendant, or about Dr. Al-Arian and/or the extent of his alleged involvement in the instant case;
- (n) Information tending to show that any informant suffers from any material defect in perception, memory, veracity or articulation; and,
- (o) Any information contained in any document, FBI 209 blue sheet or Airtel or any state or federal governmental agency which maintains files on informants sources and assets which is in any way exculpatory to the Accused.

WHEREFORE, for the foregoing reasons, such other reasons as may appear to the Court, and because the government has declined to provide the aforementioned information through informal channels, the Accused prays that the motion be granted and that the Court Order the government to produce all information requested herein.

Respectfully Submitted,



LINDA MORENO, ESQ.

Linda Moreno, P.A.

1718 E. 7th Avenue

Suite 201

Tampa, Florida 33629

Florida Bar Number 112283

Telephone (813) 247-4500

Telecopier (813) 247-4551

WILLIAM B. MOFFITT, ESQ.

(VSB#14877)

Asbill Moffitt & Boss Chtd.

The Pacific House

1615 New Hampshire Avenue, N.W.

Washington, D.C. 20009

Telephone (202) 234-9000

Telecopier (202) 332-6480

Counsel for Dr. Al-Arian

CERTIFICATE OF SERVICE

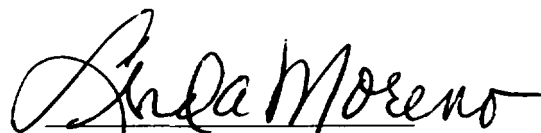
I HEREBY CERTIFY that on this _____ day of March, 2004, a true and correct copy of the foregoing motion was served via first-class mail, postage prepaid, upon:

Walter Furr, Esq. &
Terry A. Zitek, Esq.
Office of the U.S. Attorney
400 N. Tampa St., Suite 3200,
Tampa, Florida, 33602;

Kevin Beck, Esq.. &
M. Allison Guagliardo, Esq.
Assistant Federal Public Defenders
400 N. Tampa St., Suite 2700,
Tampa, Florida, 33602;

Steven Bernstein, Esq.,
P.O. Box 1642,
Gainesville, Florida, 32602; and,

Bruce Howie, Esq.,
Piper, Ludin, Howie & Werner, P.A.
5720 Central Ave.,
St. Petersburg, Florida, 33707,



LINDA MORENO, ESQ.
1748 E. 7th Ave., Suite 201
Tampa, Florida 33605
Telephone: 813-247-4500
Facsimile: 813-247-4551
Florida Bar No. 112283
Counsel for Dr. Al-Arian